

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Jane Doe,

Plaintiff,

v.

Case No. 06-12493

Tecumseh Public Schools, Richard Fauble,
Linda Hutchinson, James Gilmore,
Matthew Peterson, Rachel Peterson,

Honorable Sean F. Cox

Defendants.

ORDER

Plaintiff/Counter Defendant Jane Doe (“Doe”) filed this action on June 5, 2006, against Defendants Tecumseh Public Schools, Richard Fauble, Linda Hutchinson, James Gilmore, Matthew Peterson and Rachel Peterson. The only defendant that currently remains in this action, however, is Defendant Matthew Peterson (“Peterson”). Peterson is currently incarcerated and is proceeding *pro se*.

On May 22, 2007, Doe filed a Motion for Summary Judgment in which she sought summary judgment in her favor with respect to Peterson’s counterclaims in this action. This Court granted that motion in part, and denied it in part, in an Opinion & Order issued on September 28, 2007.

Pursuant to this Court’s April 30, 2007 2nd Scheduling Order, discovery in this action closed on June 29, 2007, no motions may be filed after July 30, 2007, and trial is scheduled to take place during the months of January/February, 2008. (See Docket Entry No. 55). That Scheduling Order also set the Final Pretrial Conference to take place on November 27, 2007, but

that date was later changed to December 4, 2007. (*See* Docket Entry No. 86). The Scheduling Order expressly provides that “A proposed Joint Pretrial Statement signed by counsel for all parties, shall be filed with the Court one week prior to the Final Pretrial Conference. The requirements of such a pretrial order are attached. All requirements must be complied with.”

On November 27, 2007 – just one week prior to the scheduled Final Pretrial Conference in this matter – Doe filed a “Second Motion for Summary Judgment on Defendant’s Counterclaims.” The Court concludes that Doe’s motion must be denied as untimely because: 1) the parties were required to file all dispositive motions by the motion cutoff date of July 30, 2007, which passed four months ago; and 2) Doe previously filed a Motion for Summary Judgment, that was fully briefed by the parties and ruled on by the Court, and the grounds Doe seeks to raise here could have been included with that motion. Moreover, Peterson’s *pro se* status also weighs against allowing Doe, who is represented by counsel, to file a successive and untimely dispositive motion just one week before the scheduled Final Pretrial Conference in this matter.

Accordingly, **IT IS ORDERED** that Doe’s Second Motion for Summary Judgment is **DENIED AS UNTIMELY**.

IT IS FURTHER ORDERED that the December 4, 2007 Final Pretrial Conference in this matter shall proceed as scheduled. The parties are further **ORDERED** to submit a proposed Joint Pretrial Statement signed by counsel for Plaintiff, and by Peterson, prior to the Final Pretrial Conference. The requirements of that pretrial order are set forth in this Court’s April 30, 2007 Scheduling Order. Both parties are cautioned that for failure to cooperate in preparing or submitting the joint final pretrial order, or failure to comply strictly with the terms of the joint

final pretrial order, the Court may dismiss claims, enter default judgment, refuse to permit witnesses to testify or to admit exhibits, assess costs and expenses, or impose other appropriate sanctions.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: November 28, 2007

I hereby certify that on November 28, 2007, a copy of the foregoing document was served upon counsel of record by electronic means and by First Class mail upon:

Matthew Peterson
601048
Florence Crane Correctional Facility
38 Fourth Street
Coldwater, MI 49036

S/J. Hernandez
Case Manager